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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,246	06/27/2001	Jun Miura	SON-2150	1558
23353	7590	07/27/2004	EXAMINER	
RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036			LEURIG, SHARLENE L	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/891,246	MIURA ET AL.	
	Examiner	Art Unit	
	Sharlene Leurig	2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 37-58 is/are pending in the application.
- 4a) Of the above claim(s) 37-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 37-58 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>031704</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed March 25, 2004 has been entered and acknowledged by the examiner. Claims 51-58 have been added and claims 1-36 have been cancelled.

### ***Election/Restrictions***

2. Claims 49 and 50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected flat cathode ray tube apparatus, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 25, 2004.

The applicant's arguments traversing the restriction requirement of claims 49 and 50, relies on the limitations of cancelled claims 1-36. New claims 51-58 are directed to the elected invention of a flat cathode ray tube and an examination on the merits is herein provided. Though the new product claims 51-58 recite a cathode ray tube comprising a transfer foil, that limitation is directed to an intermediate product, since the transfer film, the adhesive layer, and the peeling layer of the transfer foil are all removed during the method of manufacturing, leaving only the fluorescent layer, the grid layer and the reflective layer in the final product, and is therefore subject to interpretation as a product-by-process limitation which is not afforded patentable weight. Therefore the product claims 51-58 need not be produced by the use of a transfer foil, and are therefore subject to restriction from claims 49 and 50 directed to a flat cathode ray tube apparatus having a transfer foil laminating multiple layers.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 51-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Kato et al. (JP 11-096948) (of record).

Regarding claim 51, Kato discloses a flat cathode ray tube having a fluorescent layer (4), described in paragraph 0014, and a reflective layer (3) described in paragraph 0008, the reflective layer being between the fluorescent layer and a screen panel (1) (paragraph 0007). The total surface area of the reflective layer (3) is smaller than the total surface area of the fluorescent layer (4) at least because the reflective layer is thinner than the fluorescent layer (paragraphs 0017 and 0018).

The examiner notes that the claim limitations directed to the fluorescent layer, the reflective layer and the grid layer being part of the flat cathode ray tube or of the layers on the screen panel being transferred from a transfer foil are drawn to a process of manufacturing, which is incidental to the claimed apparatus. It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

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Regarding claim 52, the reflective layer (3) and the fluorescent layer (4) are formed at the inner side of the screen panel.

Regarding claim 53, the reflective layer is formed of a white inorganic layer (paragraph 0008).

Regarding claim 54, the reflective layer is formed of a titanium oxide layer (paragraph 0009).

Regarding claim 55, a grid layer (2) is between the reflective layer (3) and the screen panel (1).

Regarding claim 56, the Examiner notes that the claim limitation of the transfer foil including an adhesive layer between the grid layer and the screen panel is drawn to an intermediate product during the process of manufacturing, which is incidental to the claimed apparatus. The applicant's disclosure describes the adhesive layer being vaporized and removed during the manufacturing process (paragraph 0107). It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claim 57, the Examiner notes that the claim limitation of the transfer foil being sandwiched between the screen panel and a transfer film that is releasably removable is drawn to an intermediate product during the process of manufacturing, which is incidental to the claimed apparatus. The applicant's disclosure describes the transfer film being removed during the manufacturing process (paragraph 0104). It is

well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claim 58, the Examiner notes that the claim limitation of a peeling layer being between the transfer film and the transfer foil is drawn to an intermediate product during the process of manufacturing, which is incidental to the claimed apparatus. The applicant's disclosure describes the peeling layer being vaporized and removed during the manufacturing process (paragraphs 0106 and 0107). It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

### ***Conclusion***

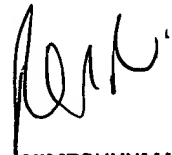
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharlene Leurig whose telephone number is (571) 272-2455. The examiner can normally be reached on Monday through Friday, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sll



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